



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Roger V. Kendall et al.

Examiner: Kailash C. Srivastava

Serial No.: 10/800,016

Group Art Unit: 1655

Filed: March 15, 2004

Title: METHODS FOR TREATING CANCER USING PERNA CANALICULUS  
COMPONENTS AND EXTRACTS OF PERNA CANALICULUS

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed September 27, 2006, and the restriction requirement set forth therein, Applicants hereby elect Group I, claims 1-12, drawn to a method for treating a malignant tumor cancer. The election is made with traverse for the reasons set forth below. Applicants reserve the right to file one or more divisional applications directed to the non-elected subject matter.

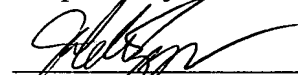
The restriction requirement between each of the groups from one another is respectfully traversed. As to Groups I and III, it is alleged in the Office Action that the invention are unrelated. However, it should be evident that the method of Group III is a method for making the product of Group II which is a product useful in the method of Group I. The product, Group II, serves to link the method of making an method of use of Groups III and I. Thus, it is urged that Groups I and III are related. As to Groups I and II, it is alleged in the Office Action that the method can be conducted, i.e., the tumor/cancer treated, with other plant or cellular extracts. Applicants respectfully submit that methods conducted with other extracts would not result in the method of applicants' invention. Thus, this would not result in the "process as claimed"

being carried out by another product. Therefore, this basis for the restriction is not supported. As to Groups II and III, it is alleged in the Office Action that the product could be prepared by extraction using other solvents than those specified in the claims. Applicants respectfully submit that methods of making conducted with other extracts would not result in the product of applicants' Group II invention. The claims of Group II require the extract to be of the particular polyoxyethylene sorbitan ester. A method performing extraction with some other solvent would not result in a product of the claims of Group II. Thus, such a method would not make the "product as claimed" by the materially different method. Therefore, this basis for the restriction is not supported.

For all of the above reasons, it is urged that the restriction requirement should be withdrawn, in total. Favorable action is earnestly solicited.

No fee is believed to be due with this response, however, the Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No.13-3402.

Respectfully submitted,



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Attorney Docket No.: FSC-0009

Date: November 21, 2006

JAS/blb

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